

**ORDER VACATING ORDER
OF JUNE 8, 2005 FILED
UNDER CAUSE NO. CIV F 99-
6643 AND VACATING
HEARING DATE OF
JUNE 13, 2005, AND TAKING
MATTER UNDER
SUBMISSION IN CAUSE
NUMBER CIV F 05-118**

On June 8, 2005, the Court issued an order taking Qualitest's Rule 12(b) motion under submission and vacating the June 13, 2005, hearing date. The order used the case number 99-6443. This was an error as the proper case number is 05-118. Accordingly, the order of June 8, 2005, with case number 99-6443 is VACATED.

Additionally, Defendant, QUALITEST PHARMACEUTICALS, Inc., has noticed for hearing and decision a multi-faceted Rule 12(b) motion to dismiss and motion to strike. The matter was scheduled for hearing to be held on June 13, 2005. The court has reviewed the moving papers and has determined that this matter is suitable for decision without oral argument. Local Rule 78-230(h).

1 Therefore, IT IS HEREBY ORDERED that the previously set hearing date of June 13,
2 2005, is VACATED, and the parties shall not appear at that time. As of June 13, 2005, the Court
3 will take the matter under submission and will thereafter issue its decision.

4 IT IS SO ORDERED.

5 **Dated: June 9, 2005**
6 0m8i78

/s/ Anthony W. Ishii
UNITED STATES DISTRICT JUDGE